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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
JASPER DIVISION

2020 JAN -9 A 11:03

DAVID SCOTT FROST,
Plaintiff,
V.

:Case No.:6:19-
cv-01319-LCB-JEO

Defendant #1: Sheriff Tommy Moore, of Winston County, Alabama

Defendant #2: Kilby Corrections, Warden, Contracted Warden Date's,
April 26, 2019, et al, Officer's, RECEIVING, PROCESSING : P.O. Box
150, Mt. Meigs Alabama 36057

Defendant #3: Alabama Department of Corrections, **Commissioner Jefferson
Dunn**; Limestone Correctional Facility, Corizon Medical services,,
Physician', Doctor's clinic. LPS's.

FINAL AMENDED COMPLAINT

I: The Parties to the Complaint

A: Mr. David Scott Frost, [Hereinafter "Frost[:ALS #:307324""Frost]:
Frost is now a prisoner in the Alabama Department of corrections
(ADOC) who has diabetes II, with mental disorder's. As explained
in greater detail in the factual in the factual allegations, [At
11:00 AM Frost was returning from lunch, and was advised by
Limestone Correctional Facilities, officer, at Cross-over gate
to report to medical services at Limestone,], the Court may consider,;
as Frost, plaintiff has been denied due process, provided grossly
inadequate care for his illnesses. The Sheriff, Tommy Moore, subjection
of the plaintiff "Frost, to unreasonable restraint's in this
action and the Sheriff's alleged creation of dangerously inadequate
medical condition's, violent conditions of confinement, and Const-
itutional violation based on the sheriff, Warden's "Kilby Official's,
Prison placement in punitive isolation incarceration without

penological justification, a violation constitutionally based on the Sheriff's ambulatory Kilby Corrections, Correctional officer's receiving Frost, and their failure to provide the plaintiff necessary mental health treatment, medical care for his diabetes, and the subjection of plaintiff to punitive, isolations, harmful conditions of confinement, and the deliberate indifference to his serious medical needs, a constitutional violation based on the Sheriff's and Kilby Facility's processing officer's isolation in a disproportionately punitive manner with deliberate indifference,, (At 11:15 AM. Frost returned to law library after being advised by Corizon Medical "Exh.#1 aboard "stating Date received 12/2/19 stating "you have not filled out any sick call request form for above complaints. Please follow the sick call process in order to be evaluated and referred to the medical provider if necessary, Frost is again delayed adequate health care, and being provided grossly inadequate health care by inadequate health care official's, Limestone, Frost has turned in health care request's, contrary to the allegation's listed in Frost Exh.#1 aboard, added defendant's, Parties, Defendant's, #3 "Id.": The Fourteenth Amendment requires remedial action by the judiciary. Plaintiff David Scott Frost is currently incarcerated at Limestone Correctional facility, Alabama, Population "K. Unit. 28779 Nick Davis Road , Harvest AL 35749

B: THE DEFENDANTS:

[i]: Defendant Tommy Moore is the Sheriff of Winston County, as Sheriff, he is responsible for acting in the line and scope of his duties as a sheriff. [Code of Alabama Title 14 Criminal Correctional and detention Facilities §§ 14-6-1 through 14-6-22; §§ 14-6-1 through 14-6-109; §14-11-4; and as specifically, responsible for ensuring that his Jail and officer's operate in a manner that

--is consistent with the United States. He is sued in his official, personal individual capacity. Winston County Sheriff is responsible for Winston County Alabama.

2: Defendant "Kilby Correctional Facility Warden, officer's contracted, responsible, and assigned for the oversight of policies, practices, inmates ADOC policies contract's, including medical and nutritional care 14-1-1 Duties of Board of Corrections § 14-3-1 ; 14-3-9; 14-3-12; 14-3-14; 14-3-15; 14-3-16; 14-3-34; 14-11-2;

3: Defendant "Alabama Department of Corrections, Limestone Correctional Facility, Corizon Medical services, Physician, Doctors, Clinics, L.P.N's, medical provider's, claiming that the A.D.O.C. is in violation of a settlement agreement in the case of Gaddis v. Campbell Class Action CV-03-T-390-N In the United States district Court For the Middle District of Alabama in which the Court set out guidelines for the treatment of diabetic inmates in the custody of the A.D.O.C. prison facilities. A.D.O.C. officials are not allowing inmates a proper intake receiving, medical treatment's, diet. Frost herein is a person with a disability as defined by statute; is otherwise qualified for the relief/benefits in complaint, question, and is/was excluded from the benefits due to discrimination. 42 U.S.C. § 12131 et seq. "Chisolm v. McManimon 275 F.3d 315, 328-30 (3rd Cir. 2000): The ADA prohibits officials from discriminating against inmates with disabilities. Each defendant cited herein is in violation of clearly established state and federal laws as well as Art. I § 1, 4, 5, 6, 8, 14 Amendments to the United States Constitution.

II: Basis of jurisdiction

1. This action arises under Due Process Clause & Eighth and Fourteenth Amendment's to the United States Constitution and 42 U.S.C. § 1983; 42 U.S.C. §§ 12101-12213.

Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331, 1343.

This Court has jurisdiction over the plaintiff's requests for declaratory and injunctive relief pursuant to 28 U.S.C. § 2101-2202.

[i]:Prisoner Status:

Factual allegations regarding Frost, Plaintiff, Prisoner in the Alabama Department of Corrections herein, diabetes, mentally deficient, affected, ADA 42 U.S.C. § 12131 et seq. and 504 Rehabilitation Act of 1973.

[ii]:Diabetes melitus:David Frost; A complex, chronic illness.

In prisoner's, persons such as David Scott Frost herein a Type II diabetes, the body does not make insulin, a hormone that facilitates the movement of sugar (glucose) from their blood into cells throughout the body. Cells in the body use glucose as the principal source of energy that they need to knowingly live. Without access to sufficient amounts of glucose, the cells in the body must use fat as their source, which can result in a severe chemical imbalance ("Acidosis"). Insulin also helps the body to store extra fuel as fat. People with type 2 diabetes, as Mr. Frost has been diagnosed herein and continuously denied treatment's, as Frost subject's to this suit, constitutional issues, entitlement's, definite statements as to his claims, Type 2 diabetic, some insulin is produced in type 2 diabetic, but not enough to meet the body's needs. In addition, the said cells in a type 2 diabetic do not respond to insulin as they should (insulin resistance) and glucose does not adequately enter the cells from the blood. Some type 2 diabetics must also take insulin; others can be treated with oral medication, exercise, and a careful diet. Approximately On or around Sept. 25, 19 Frost complained to this Court to the best of his ability, Attended school with a 7th grade education, diagnosed as a diabetic, mental illness, Frost complained through prison helper's "as Johnson V. Avery authorizes, regarding correctional officer's abusing authorities, violating constitutional rights, arbitrarily denying, as Frost placed requests into defendant's listed herein complaint's and have received no answer's to or even been recognized. Frost corrected deficient case 6:19-cv-01319-LCB-JEO IN US Dist. Northern Dist. Al., Jasper Div.

**:

Prisoner consent form filed Nov.7.2019 Doc.#11:

***:Doc.13 "Id.Order ,plaintiff paid a partial filing fee of

\$58.85 --pursuant to 28 U.B.C.§ 1915(b)(1) and (2),--

****:Doc.15 "Id.ORDER TO AMEND "FINAL AMENDED COMPLAINT and case

no.6:19-cv-01319-LCB-JEO hereby answered and established:Par's

1-2:½Supra incoerporated":

3:A.D.O.C. for Alabama Department of Corrections , and it's officials are in clear violation of ConstitutiOonal right's, Rules, regulation's, listed herein, and in violation of an Honorable Myron Thompson ORDER. "All diabetics are being discriminated against. They have not been provided adequate mmedical attention, David Frost has not been provided adequate medical attenbjon/care, /services, is being denied adequate diabetic dayly diabetic diet, he is diabetic, is not provided with 100 percent fruit juice on a daily basis to being denied herein and continues to be denied, see Exh.#1 aboard, Frost is not given milk three times a day, Frost does not recieve a snack after every meal. Frost hereby sues these defendant's for irreperable injuries in the amount of \$500,000.00 each named defendant. These defendant's are in direct violation of the A.D.A. Act 42 U.S.C. §§ 12101-12213 , In addition to the Constitutuoin. Disabled inmates have rights under the A.D.A., and Frost has these right's herein because he is an inmate in the Alabama Department of correction's, because he is a diabetic. and continuously denied medical care by grossly inadequate L.P.N.s. administrator's, responsible medical care providers in the Alabama Department of COrrrection's, and Limestone Correctional Facility, herein as Exh.#1 aboaefd discloses. Frost has filmaildrop boxes and is again denied/delayed medical health care. The United States Supreme Court has held these federal statutes enforceable and applies to jails, Defendant Moore, Kilby Supra, Limestone A.D.O.C. and all prisons. See Pennsylvania Dept. of Corr's. v. / Yeskey 524 U.S.206 (1998). Chisolm v. McManimon 275

F.3d 315,328-30 (3d cir.2000). The Eleventh Circuit Court of Appeals has held Congress acted constitutionally and did not exceed its authority when it enacted A.D.A.(42 U.S.C. §§12101 Et.Seq.) Pursuant to its enforcement powers under § 5 of the Fourteenth Amendment Amendment, with intent that statute apply to disabled prisoners. *Amos v. Marry Dept. of Corr. Servs.* (1999) *Harris v. Coweta County* 21 F.3d 388, (11th cir.94): "At the same time, the Alabama Supreme Court has stated that sheriffs do not have absolute immunity in all circumstances. See *Coleman v. City of Dothan* 598 So.2d 873,875 n.2 (Ala.92) ("We are careful to point out ... that a sheriff is not entitled to absolute immunity in all situations." *White v. Birchfield* 582 So.2d 1085,1088 (Ala.91) ("[B]y this opinion, we are not to be understood as granting absolute immunity to a sheriff in all situations."). See Ala. Code § 14-6-19 (1975) Obtaining medical attention for sick prisoners is a statutory duty of Alabama sheriffs. *Parker v. Williams* 862 F.2d 1471,1480 (11th cir.1989) In *Parker* held that Alabama sheriffs are the final repository of county authority with respect to the operations of jails and the hiring of jailers and therefore the county could be held liable for the sheriff's hiring policy, which resulted in the inmates injuries. see *id.* 1480. The *Parker* court based conclusion on Alabama law. see 862 F.2d at 1478-80, and its holding continues to be the law of this circuit. *Lancaster v. Monroe County, Ala.* 116 F.3d 1419,1428-1429 (11th cir.1997):

That a privately employed prison physician acts under color of state law for the purposes of liability under 42 U.S.C. § 1983 remains well settled. See *West v. Adkins* 487 U.S. 42,108 S.Ct. 2250,101 L.ed.2d 40 (1988):

Frost would request that the contract between Alabama Department of Corrections, Limestone Correctional Facility, be added to the record with Kilby prison, Defendants Tommy Moore et al.,

Frost requested that the contract between Winston County, and Alabama Dept. of Corr's., health care serv's be provided by defendant's. The Court be added to the record, during relevant times. The eleventh Circuit would have the inherent power to supplement the record with materials not submitted to the district court. See *Young v. City of Augusta Ga.* Through *Devaney* 59 F.3d 1160, 1168 (11th cir.95); *Jones v. White* 992 F.2d 1548, 1566-68 (11th cir.93); *Cabelceta v. Stanfard Fruyit Co.* 883 F.2d 1553, 1555 (11th cir.89); *Rossw v. Kemp* 785 F.2d 1467, 1474-76 (11th cir.86); *Dickerson v. Ala.*, 667 F.2d 1364, 1367 (11th cir.82):

The equal protection clause essentially requires that all persons similaerly situated be treated same. *Mackenzie v. City of Rockledge* 920 F.2d 1554, 1559-(11th cir.1991);

The substantive due process doctrine proscrib es deprivation of a property interest for an improper mptive and by means that were pretextual, arbitrary and capricious, and ... without any rational basis. Frost has a constitutional right of due process ,property interest" *Estelle v. Gamble* 429 US 97, 50 L Ed 22d 251 (1976); "Contract '2:03cv390 #50 IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA CLASS ACTION CV-03-T-390±N. Michael Gaddis, et al., vs. DONAL CAMPBELL , Defendants REVISED SETTLEMENT AGREEMENT:

Personal securityy, like medical care, is one of life's necessities to which inmates are entitled in minimal civilized measure. " *Rhodes v. Chapman* 452 U.S. 337, 347, 101 S.Ct. 2392, 2399, 69 L.Ed.2d 59 (1981); *Wheeler v. Sullivan* 599 F.Supp. 630, 640 (1984):½ The defendant's knows, but is deliberately indifferent to the faft that this inadequate care and treatment has resulted

in serious and substantial harm to the plaintiffs and continues to create a serious risk of further harm to them. Under the substantive due process theory government regulation does not effect a taking for which the Fifth Amendment requires just compensation; instead, regulation that goes so far that it has the same effect as a taking by eminent domain is an invalid exercise of police power, violative of the Due Process Clause of the Fourteenth Amendment. Should the Government wish to accomplish the goals of such regulation, it must proceed through the exercise of its eminent domain power, and, of course, pay just compensation for any property taken. The remedy for a regulation that goes too far, under the due process theory, is not "just compensation," but invalidation of the regulation, and if authorized and appropriate, actual damages. *Williamson County Planning Comm'n. v. Hamilton Bank* 473 US 172, 87 L Ed 2d 126, 105 S Ct 3108 ; Frost filed suit against Winston County Sheriff and its members and staff pursuant to 42 U.S.C. § 1983 alleging that the Sheriff/commission had taken him, his property without just compensation by refusing to provide Court Order, evidence to require his delivery to and placement in the hands; treatment of Kilby Prison. The government regulation may effect a taking for which the Fifth Amendment requires just compensation and assuming further that the Fifth Amendment requires the payment of money damages to compensate for such a taking, the jury in this case, would find that Frost had been denied and that such a temporary deprivation as a matter of law may constitute a taking. The Sheriff, defendant's taking regulation that goes so far that it has the same effect as a taking by eminent domain is an invalid exercise of the police power, violative of the Due Process Clause-

of the Fourteenth Amendment. *Pennsylvania Coal Co. v. Mahon*,
260 U.S. 393, 67 L. Ed. 322, 43 S. Ct. 158, 1922; *Gulf Power Co. v. U.S.* 998
998 F. Supp. 1386, 1397 1 N.D. Fla. 98; *Doty v. City of Tampa* 947
F. Supp. 469, 471 1 M.D. Fla. 96; "Brewer v. Blackwell" 836 F.S. 631, 638
1 S.D. Iowa 93;

The events giving rise to Frost's claim arose from outside
institution ,

FACTUAL ALLEGATIONS REGARDING NAMED PLAINTIFF DAVID SCOTT FROST

[1]: Frost is now an Alabama Prison inmate who suffers
from a serious mental disorder. Frost brings this suit. Prisoner's
in Alabama with serious mental illness do not receive adequate
care. David Scott Frost was in Hill Crest when he was 12 years
old. Frost was in treatment "North eatur Mental Hospital
approximately 15 years ago.

Frost languished for months without access to necessary
care, suffered from severe hallucinations, and he decompensate
into catatonic states and bipolarity. Frost receive mental
care in Jasper Hospital mental ward twice. Two times in Riverbend
in ECM Florence Al.,, Prisoners retain the essence of human
dignity inherent in persons. Respect for that dignity animates
the eighth Amendment prohibition against cruel & unusual punishment. The
basic concept underlying the Eighth Amendment is nothing less
than the dignity of man. *Atkins v. Virginia* 536 U.S. 304, 311, 122
S.Ct. 2242, 153 L.ed.2d 305. *Hill v. Dekalb Reg. Youth Ctr.* 40
F.3d 1176, 1186 (11th cir. 94); *Estelle v. Gamble* 429 U.S. 97, 103, 97
S.Ct. 285, 50 L.ed.2d 251 (1976); *In re Kember* 136 U.S. 436, 447, 10
S.Ct. 930, 34 L.ed. 519 (1890); *Rhodes v. Chapman* 452 US 337, 69
L.ed.2d 59, 101 S.Ct. 2392; *Weeler v. Sullivan* 599 F. Supp. 630, 640
(1984); *Brown v. Thompson* 868 F. Supp. 326, 330-331 (S.D. Ga. 94);
McElligott v. Foley 182 F.3d 1248, 1254-1255 (11th cir. 99); *Hill*
v. Dekalb Reg. Youth Det. Cent. 40 F.3d 1176, 1184-1185 (11th cir. 94);

[11]:The events giving rise to Frost's claims arose in an institution described as Diabetes mellitus, ,sustained injuries related to the described events herein.

[11]: Plaintiff David Scott frost is a dependent diabetic inmate currently incarcerated at Limestone Correctional facility.He is 48 years old.Frost was diagnosed with diabetes 8-9 years ago to the best of his recollection at the age of 42.Although defendant's deliberate indifference was diagnosed with diabetes when he entered Kilby Prison.

David Scott Frost alleged he was held in Franklin County approximately 1 week,when he was forcefully taken and delivered to Kilby Corrections [THE PRISON].Complaint Pg's.1-5 incorporated): When David Scott Frost herein were delivered to Kilby (complaint 1-5 throughout pg.16 fully incorporated herein.") Tolert v.Eyman 34 F.2d 625.Frost would show this Honorable Court that he was not a sentenced prisoner required to be incarcerated at Kilby he was seized,confined,carried away by force or fraud.(ADOC) Defendant Sheriff Moore,Alabama Department of Corrections Defendant's, The Sheriff,as Frost was in Franklin County Jail,for questioning about a pawn shop.Frost did not have or receive any charges whatsoever.The Franklin county Sheriff's office was confirming Frost's statement about a pawn shop investigation inquiry and the next day an officer (Tommy Thrasher) came by his cell and ordered Mr.Frost to pack up,that he was today going to prison (Kilby):The jailer took Mr.Frost'from his holding cell,Frost in his control; obeyed order's.Frost asked Mr.Thrasher why he was going to vet prison ? Officer Thrasher told Mr.Frost that Kilby would figure that out once Frost goes to Kilby (ADOC).

Mr.Frost arrived at Kilby Cor.Fac.,(ADOC).Frost was nervous,experienced fears,mental,physical distress,that when Frost arrived at Kilby the officer at Kilby processing was yelling,threatening Mr.Frost with physical corporal punishment;--10-

Frost requested to call an attorney, to be allowed to, and was denied, before he was incarcerated because he did not have a court order, and he was incarcerated; and Mr. Frost did not do any act, actions to warrant this treatment from officer's at Kilby Prison.

Frost did comply with whatever the officer ordered of Frost, in shock. Furthermore, while he was being held in holding cell, Frost was then placed in lockup. Mr. Frost suffered severe back pain/mental anguish, and his cries for medical assistance were completely ignored. Frost submits to the court substantial evidence of such quality and weight that reasonable and fair minded men in the exercise of impartial judgment, *Neff v. Kehoe* 708 F.2d 639, (11th cir. 1984); *Boeing Comp. v. Ship, man* 411 F.2d 365, 375-(1969); *Long v. Shorebank Dev. Corp.* 182 F.3d 549, 560-561, (7th cir. 1999)...

The Sheriff, defendant #1 Tommy Moore did not legally, properly escort Mr. Frost to Centrtqal booking at Kilby Correctional Facility, Prison. "Evidence a policy that caused the deprivation of the plaintiff Frost's rights. Kilby Correction's, defendant's #2" Id. treated Frost wrong, it's personnel abused Frost, threatened Frost and with the Sheriff, deputy had a obligation to make ccinquiry of Frost concerning status. Frost stayed in lockup for approximately (5) days .1 hundred and 70 hour's, before Mr. Frost was finally able to get a Lt. Dixon told Mr. Frost, get you'r fucken ass out of my face with that bullshit boy, which Frost kindly backed away, realized, Mr. Frost thought he was getting nowhere, he was a white inmate under the treatment of a black correctional officer, . Frost wrote a request slip to classification advising that Mr. Frost was at Kilby wrongfully imprisoned. Classification advised Mr. Frost thsat they were looking into why Mr. Frost was at Kilby. The next day Frost

was taken to the warden's office,when escorting officer advised Frost that this was the (5th) fifth time this has happened in his (25) twenty five years that he has worked there. Approximately "7-8" month's ago,Frost wrote classification.Mr.Frost had been there incarcerated an estimated 28 days then Mr.Frost stayed 10 day's in the hole,[referred to in place of protective custody,] and regarding Correctional officers abusing authorities,arbitrarily denying freedom from external (Noi.2011-160,Winston County Terroristr Threat,"Ala.Cri.Code § 13A-6-40 (as governmental restraint,compuls@on,or interference in engaging in the pursuit or conduct to the extent that they are lawful and not harmful to others.David Scott Frost' freedom from physical restraint.Mr.Frost was confined,and carried away by force or and fraud and upon a demand of Winston County case No.2011-160.

B:ELEMENTS OF SECTION 1983

In determining whether or not the defendants are liable under section 1983,the Court has stated the following in its previously cited order ;To impose § 1983 liability on a local ngovernment actor for failing to act to preserve a constitutional right,a plaintiff must establish:(1)that he possessed a constitutional right which was deprived;(2) that the defendant has a policy or custom;(3) that the policy or custom constituted a deliberate indifference to the plaintiff's constitutional right;and *(4) the policy or custom wass the moving force behind the deprivation./

[1]:As to tje first element.Plaintiff David Scott Frost possessed a constitutitonal right to have a judicial determination that probable cause existed for his continued detention with "Gerstein v.Pugh,420nU.S.103,95 S.Ct.854,43 L.ed.2d 54 (1975)(holding that "the Fourth Amendment requires a [prompt] judicial determination of probable cause as a prerequisite to extended restraint of

County of Riverside v. McLaughlin, 500 U.S. 44, 111 S.Ct. 1661, 114 L.Ed.2d 49 (1991) (requiring a judicial determination, determination of probable cause within forty-eight (48) hours of the warrantless arrest, absent extraordinary circumstances); Powell v. Nevada, 511 U.S. 79, 114 S.Ct. 1280, 128 L.ed.2d 1 (1994) (deeming a four (4) day delay in the defendant's probable cause determination as "presumptively unreasonable under McLaughlin's 48-hour rule"). Clearly, Frost, the plaintiff did not "carry the key to the prison" - only the issuing judge carried that key for this individual. The holding of Gerstein, on its face, applies to any "extended restraint of liberty following arrest. 420 U.S. at 114, 95 S.Ct. at 863; cf. Soldal v. Cook County, Illinois, 506 U.S. 56, 65-67, 113 S.Ct. 538, 546, 121 L.ed.2d 450 (1992) (applying the Fourth Amendment protection against unreasonable searches and seizures in a civil case). Frost's liberty was extensively restrained by the defendants. The defendant's simply cannot hide behind some label in order to defeat this plaintiff's basic constitutional right. The Court should conclude that the plaintiff possessed a constitutional right, the Court readily determines that this right was deprived.

Frost was placed into another cell wherein he was secluded in isolation for another 10-days. After the fact's, notice to Warden, official's, that Frost was not supposed to be there. The Warden visited Frost again and advised Frost that Winston County would be there to pick up Mr. Frost the next day. The next day, contrary thereto "Warden's instruction's. The next day arrived and Winston County did not. Winston County did not come and pick up Mr. Frost the next day as Frost were advised by official charged with special supervisory duties or with the enforcement of specified laws or regulations, charged by statutes in title 14 & 15 Code Ala. 1975.

The defendant's unlawfully arrested and imprisoned the plaintiff Mr. Frost, as a proximate consequence of the defendant's said action's, negligence, the plaintiff David Scott Frost was caused to suffer the above and following injuries and damages. David Scott Frost and laws were withheld. United States Constitution's Amendments thereto Frost wrongful incarceration § 29-2-150 Code Ala. 1975 §§ 13A-6-41; Samples v. United States 121 F.2d 263 (5th cir. 41); United States v. Russell 255 U.S. 138, 41 S.Ct. 260, 65 L.ed.2d 553 (1921); Officer's and employees chapter 41 AS Administrative Office of the United States Courts § 404. Duties of director generally, challenge or validity of incarceration, claims for damages, unlawful confinement, damages under the State and Federal Rico Statutes, Unlawful incarceration §§ 29-2-150 to 29-2-165 Code of Alabama 1975, and Federal Rico Statutes 18 U.S.C. §§ 1964(C). 18 U.S.C. § 1962, recover threefold damages he sustains and the cost of the suit, including a reasonable attorney's fee, 18 U.S.C.S. § 1962; 18 U.S.C. § 2; (Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal. (b): 18 U.S.C.S. § 201; § 1028; § 1503.

Having concluded that the plaintiff possessed a constitutional right, the Plaintiff "Frost illegal incarceration went on for 9 more days "198 hours, 11,880 "Eleven Thousand Eight hundred and eighty minutes intentionally to restrained by physical force or the threats of physical force without privilege or authority. On the ninth day, approximately the eleven thousand eight hundredth and 60 minutes, the Warden advised Mr. Frost that Franklin County is coming to get you. Mr. Frost.

Franklin County Sheriff Oliver delivered, did finally return to get Mr. Frost. Franklin County transported Mr. Frost to Franklin County Jail.

"C: MR. FROST'S LIBERTY WAS INFRINGED WITHOUT DUE PROCESS Frost:

Proves the second element that each of the defendants possessed a policy or custom. The defendants' conduct in relation to the plaintiff to an existing policy. The Warden possessed final making authority and consequently, the county, Winston. See *Jett v. Dallas Indep. School Dist.*, 491 U.S. 701, 737, 109 S.Ct. 2702, 2723-24, 105 L.ed.2d 598 (1989); *City of St. Louis v. Praprotnik*, 485 U.S. 112, 127, 108 S.Ct. 915, 926, 99 L.ed.2d 107 (1988) (Stating that the authority to make municipal policy is necessarily the authority to make final policy). Given that Warden of Kilby prison "Defendant # 2" is the official policy maker for Kilby Prison, policy to release an inmate only if it had a judge's order, an "un-arrest" decision by a law enforcement officer, the decision of a probation officer, or by the direction of the county contract, Alabama Department of Corrections, Kilby prison policy to hold inmates indefinitely— even though there has never been actual judicial determination.

In the case at bar, Frost alleges that the County Winston, and Alabama Department of Corrections, Kilby, violated these rights by failing to ensure that Frost received due process. Unlike *Buenrostro v. Collazo*, 777 F.Supp.128 (D.P.R.1991) and *Bailey v. Askew* 486 F.2d 134 (5th Cir.1973) judges, Judge Talmage Lee Carter did not sign any commitment order, valid or otherwise. If plaintiff was sent to the State penitentiary with a facially valid commitment order, there certainly can be no duty on the part of the department of corrections to verify or otherwise review the correctness of the judicially issued order. "Buenrostro" *Supra*, at 135 (emphasis added). Unlike *Buenrostro* and *Askew*

complaints, Frosts complaint alleged sufficient facts to state a valid section 1983 claim against Sheriff, Winston County, Alabama Department of Corrections Def's. #1 & 2 "Id".

Defendant's #1 & 2 "Supra, may be held liable for constitutional violations under the "public function " theory. With the exception of slavery, the federal Constitution does not generally restrict "[i]ndividual invasion of individual rights..." The Civil Rights Cases, 109 U.S. 3, 3 S.Ct. 18, 27 L.ed. 835 (1883): However, when a governmental entity delegates one its traditional or "public functions" to a private entity, the private entity may be held liable under the Constitution with respect to its performance of that function. Marsh V. Alabama, 326 U.S. 501, 66 S.Ct. 276, 90 L.Ed. 265 (1946); "If State action is present and the activities satisfy the statutory test articulated by the Supreme Court as modified by this court, circuit, the activities may be declared unconstitutional. See Burton V. Wilmington Parking Auth., 365 U.S. 715, 81 S.Ct. 856, 6 L.ed. 2d 45 (1961); Mann v. Hillsborough County Sheriff's Office 946 F.Supp. 962, 967 (M.D. Fla. 96): This is explained in Harris v. City of Roseburg 664 F.2d 1121, 1127 (9th cir. 1981) [T]here may be a deprivation within the meaning of § 1983 not only when there has been an actual "taking" of property by a police officer, but also when the officer assists in effectuating a repossession over the objection of a debtor or so intimidates a debtor as to cause him to refrain from exercising his legal right to resist a repossession. Mann v. Hillsborough County Sheriffs Office 946 F.Supp. 962, 967 (M.D. Fla. 96): Jeffries v. Georgia Res. Fin. Auth. 678 F.2d 919, 924-25 (11th cir.) Cert. den., 459 U.S. 971, 103 S.Ct. 302, 74 L.Ed. 2d 283 (1982): Gerber v. Longboat Harbor North Condominium Inc., 757 F.Supp. 1329, 1341 (M.D. Fla. 1991):

For example, "if a state contracted with a private corporation to run its prisons it would no doubt subject the private prison employees to § 1983 suits under the public function doctrine. *Plain v. Flicker* 645 F.Supp.898,907 (D.N.J.1986):

Therefore, because Winston County Sheriff delegated a public function, Frost may seek to hold Winston, Sheriff liable under section 1983 for depriving his liberty without due process.

D:COUNT II:FALSE IMPRISONMENT,WRONGFUL INCARCERATION:

Alabama Courts define the tort of false imprisonment as "False imprisonment " consists of unlawful detention of person of another for any length of time whereby he is deprived of his personal liberty. Code 1975 § 6-5-170. *Big D, Inc. v. Cottingham*, 634 So.2d 999 :

For the reasons stated earlier, this court should find that Frost's allegations support a section 1983 claim. The same set of facts, if proven, could easily constitute false imprisonment. In other words: Wrongful incarceration compensation for §§ 29-2-150 to 29-2-165 Act of Legislature awarding compensation.

In *Gilmore v. City of Atlanta* 737 F.2d 894 (11th cir.1984) this court explained that a municipality may be liable under 42 U.S.C. § 1983(1982) IF UNCONSTITUTIONAL ACTION IS TAKEN TO IMPLEMENT OR EXECUTE A POLICY STATEMENT, ORDINANCE, REGULATION OR OFFICIALLY ADOPTED AND PROMULGATED DECISION. *GILMORE* AT 901.

Liability may also attach where the unconstitutional deprivation is "visited pursuant to government 'custom' even though such custom has not received formal approval through the bodies making channels." *Gilmore* at 901 (quoting *Monnell v. Dep't. of Soc. Serv's.* 436 U.S. 658, at 690-91, 98 S Ct 2018

at 2035-36, 56 L.Ed.2d 611, rev'g in Part Monroe v. Pape 365 U.S. 167, 81 S.Ct. 473, 5 L.ed.2d 492 (1961). The constitutional deprivations were the result of official policy, however, there is evidence sufficient for a jury to find that Frosts unconstitutional incarceration was the result of an official policy. Sheriff Shannon Oliver escorted Frost to processing, then Kilby corrections course of business, in accordance with what they considered to be governmental policy. In Trezevant v. City of Tampa 741 F.2d 335, at 338 "The jury returned a verdict of \$25,000 in favor of the plaintiff and against the HCBJ and the City of Tampa." The jailer took Mr. Trezevant's valuables and his belt and shoes and placed Mr. Trezevant in a holding cell until he could be processed. Mr. Trezevant was in the holding cell for a total of twenty-three minutes.

Relief requested :

With facts established, Frost was transported/sent/left to/in prison by Wilson County when Franklin County Sheriff Oliver transported/took David Frost to Kilby prison whom after 38 days , approximately [2] two thousand twenty two eighty minutes and were released due to the fact a Judge did not order/sentence David Scott Frost to prison sentence at that time of delivery, in Winston County Case No. 2011-160. Frost would be entitled to a jury award of 2,462,400.00. Machado v. States Marine-Isthmian Agency, Inc. 411 F.2d 584, 586 (5th cir. 1969) The Court will not disturb an award unless there is a clear showing that the verdict is excessive as a matter of law. Anderson v. Eagle Motor Lines, Inc., 423 F.2d 81, 85 (5th cir. 1970). The award, in order to be overturned must be grossly excessive ' or ; shocking to the conscience. La-Forrecst v. Autoridad de las Fuentes Fluviales, 536 F.2d 443 (1st cir. 1988);

The standard for review of this issue was stated in *Del Casal v. Eastern Airlines, Inc.* 634 F.2d 295 (5th cir. Unit B 1981): Decisions of the United States Court of Appeals for the Fifth Circuit handed down prior to the close of business on Sept. 30, 1981, are binding as precedent in the Eleventh Circuit.' *Bonner v. City of Prichard, Ala.* 661 F.2d 1206 (11th cir. 1981):

COUNT III: Defendant's 32 & 3 "Kilby corrections, Warden, Contracted Warden dates April 26, 2019, et al Officer's receiving, processing: P.O. Box 150 Mt. Meig Alabama 36057 : Defendant #3: Alabama Department of Corrections, Limestone Correctional Facility, Corizon Medical Services, Physician, Doctor' Clinic's LPN,;

Plaintiff seeks compensation, punitive damages for his distress, emotional injuries, pain and suffering as a result for all the reasons stated herein and documents submitted to support plaintiff: Defendant's herein could not state a cause of action that would bar this Court from permitting Plaintiff David Scott Frost from proceeding with this cause of action, and that the complaint herein be allowed to proceed with prejudice, as to all defendant's #1-3 "Id", hereby incorporated.

Due to the facts stated: That defendant's violated Due Process Clause, 8th Amendment, 4th, 5th, 6th and 14th Amendments to the United States Constitution thereto, and by failing to provide adequate medical care and treatment to David Scott Frost.

Commissioner Jefferson Dunn of the Alabama Department of Corrections is responsible for the development and oversight of all ADOC policies and practices, including medical and nutritional care in all-

--in all "ADOC facilities and the monitoring and oversight of healthcare services that they have been contracted;contracted out to private provider's Defendant Jefferon would be responsible for ensuring that alabama Prisons operate in a manner that is consistent with the Uniuted ,united States Constitution.He would be sued in his official capacity.

Thje medical care provided to inmates with diabetes in the ADOC is grossly inadequate in every respect.This inadequate care includes,but is not limited to :failure to promptly diagnose diabetic inmates,(See Plaintiff's exh.# 1 aboard, Frost has put request slip's/form's into Legal mail drop boxes, in the dormitory's,sick call request slip's, and exh.#1 were returned and Frost still has been denied medical care,treatm treatment's once proscribed,1;failure to adequately monitor class member's ' blood sugar levels;failure to diagnose and provide adequate,timely care for injuries to and infections of class member's' feet;failure to diagnose and provide adequately,timely care for diabetics ,class member's ' eye problems;failure to provide classs members with an appropriate individualized meal plan;and failure to provide class members with education about their illness,particularly their nutritional needs.

a. Monitoring and control of Blood Sugar:

Diabetics must be provided the opportunity to control blood sugar within normal physiologic ranges through daily adjustment of insulin and dietary intake based upon frequent blood sugar monitoring throughout each day. Professionally, prisoner's with diabetes in the ADOC are only given finger stick blood sugar tests on an infrequent basis;the frequency depends on the prison at which they are incarcerated.At Limestone,inmates treated with insulin are given two finger stick blood sugar tests per month:The frequency may vary widely among inmates but is generally four times per day for two days every three months.

b. Hemoglobin (HbA1C) Testing: The HbA1C blood test must be performed every three to six months (depending on the diabetic) to assess adequacy of long term blood glucose control. The frequency of HbA1C tests provided by the ADOC varies widely, both among prisons and between inmates, but the test is typically given only once per year.

c. Testing for Diabetes Complications: Diabetics must be tested on a regular basis to diagnose and provide timely treatment for serious complications that may result from their diabetes. They must receive an annual dilated funduscopy funduscopic [sic] eye exam by an appropriately trained eye professional to determine if they have diabetic retinopathy, glaucoma, or cataracts. The plaintiffs are never given dilated eye exams. Diabetic's feet must be examined during every medical encounter; the plaintiff's feet are rarely, if ever, examined. Diabetics must be given an annual, annual urine microalbumine test to identify incipient kidney disease; the plaintiff is rarely, if ever, given such a test. A fasting blood lipid test must be performed annually to assess diabetics' cholesterol and triglyceride levels; this test is rarely, if ever, performed.

d. Evaluation by a physician: Diabetics should see a doctor at least every three months. The plaintiff rarely sees a doctor; HCU, of the chronic care clinic, See Plaintiff's exhibit #1 Medical grievance aboard; -care clinic is generally staffed by LPN's who are incompetent to provide even minimally adequate chronic care evaluations.

e. Diet: Diabetics must be provided with an individualized meal plan that enables them to control their carbohydrate intake in relation to their activity and insulin dose. A diabetic's meal plan depends on his age, weight, weight goals, and activity level; additional nutritional goals include control of body weight and

control of body weight and control of blood cholesterol and other fats to prevent diseases of the arteries. Prisoners with diabetes must be given instructions on how to adhere to a meal plan based on the facilities' menus. Limestone, ADOC inmates are not provided with individualized meal plans, nor are they provided with the information they need to choose appropriate types and quantities of foods to eat that correspond to their individual needs. The "diabetic meals" in the Adoc /Limestone? Correctional Facility are almost identical to the regular meals. Plaintiff has not been seen and is still being denied medical care, attention, as Exh.#1 verify's, and Frost, plaintiff herein has filled out and turned in another medical request slp for medical care/treatment. ost has and continues to be forced to endure pain's, dizziness, back aches, pains in feet, burning in feet, lower extremities, and Exhj.#1 Response is inadequate, is deliberately indifferent to Frost's serious medical needs constitutes eighth Amendment violation and gives inmate herein cause of action under 42 U.S.C. § 1983. See *Miltier v. Beorn* 896 F.2d 848 (4th Cir, 1990); 42 U.S.C. § 12101 et seq.) seeks to eliminate such unwanted discrimination against individuals with disabilities in order both to guarantee those individuals equal opportunity and to provide nation with benefit of their increased productivity. *Cleveland v. Policy Mgmt. Corp.* 120 F.3d 513 (5th cir. 1997).

F. Patient education: patient education about diabetes and self-management skills are an essential component of diabetes care. There is no education program for diabetics in the ADOC. To the contrary, inmates in the ADOC are given virtually no information about diabetics, diabetes or how to manage their illness.

g. Prevention and Management of Acute Complications: Prevention and management of low blood sugar and ketoacidosis are necessary components of diabetes care. Prevention, recognition and management

of these acute complications of diabetes are grossly inadequate
Of these in the? ADOC.Limestone Correctional :Defendant's #3"0d":

h. Prevention and Management of Chronic Complications:

Prevention and management of chronic complications of eues,feet,kidneys,n
nerves and blood vessels is a necessary component of diabetes
care.Care of chronic complications of diabetes is grossly
inadequate in the ADOC due to failure to provide timely and
effective treatment to prevent disabling damage to eyes,feet
and kidneys.(Plaintiff's Exh.#1 aboard):

1. Special Primary Care Needs:Patients with diabetes
have special primary care needs that must be provided routinely
to maiuntain health and prevent disease.FOR example,diabetics
are prone to gum disease and need preventative dental care
over and abnove that required by normal,healthy adults.Primary
care is deficient in the ADOC/Limestone Correctional Facility
due to grossly inadequate clinical evaluation,preventative
care,and follow-up.These deficiencies result from the lack
of care,lack of an organized system of care and indiffererent
or incompetent physicians and nurses.

J:LDeliberate indifference:

The deliberate indifference to the serious medical needs
of Alabama Inmate avid Scott Frost ?Plaintiff herein ADOC
#:307324,Plaintiff rigths under the eighth and Fourteenth
Amendments to the United States Constitution through 42 U.S.C.§
1983."Filed Jan.15 2004 IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA MICHAEL GADDIS et al.Plaint-
iffs vs.Donal Campbell Defendant Class Action CV-03-T-390-
N Revised Settlement Agreement Whereas on April 9,2003,plaintiffs
filed suit challenging the constitutional adequacy of the

medical care provided to persons with diabetes by the Alabama Department of Corrections (ADOC); and Whereas on July 11, 2003, the Alabama Department of Corrections, the court certified a class as consisting of all persons present and future inmates with diabetes who are or will be incarcerated in an Alabama Department of Corrections facility; and Whereas the plaintiffs and defendant agree that it is in their best interests to resolve this lawsuit; Now therefore the parties, by and through their respective counsel, hereby stipulate and agree to the following provisions: A. DIABETES POLICIES AND PROCEDURES:

1. The defendant will develop written policies and procedures (including nursing protocols) for the management and care of diabetic inmates in the ADOC. These policies and procedures will incorporate the provisions of this settlement agreement. Any medical contractor who contracts with the ADOC to provide medical care to ADOC inmates must abide by these policies and procedures. The policies and procedures will be required to be included in the medical contractor's policies and procedures manual. The defendant shall also develop written policies and procedures for the ongoing training of medical and correctional staff in the recognition of emergent diabetic situations. All policies and procedures shall be reviewed annually and updated as necessary to be consistent with current ADA (American Diabetes Association) Standards. The current ADA Standards for correctional facilities are attached to this Settlement Agreement. The ADOC shall incorporate the relevant terms of this Settlement in any Request for Proposal for medical care submitted to potential vendors.

B. INTAKE SCREENING

2. Reception Screening: Immediately upon arrival, any inmate who identifies his or herself as an insulin-diabetic shall see a physician within 24 hours to confirm that the inmate needs to be on insulin and, if so, to ensure that the insulin is continued.

3: Intake Screening:

(a) Inmates entering the ADOC who are already diagnosed with diabetes shall have a complete medical history and- have a complete medical history and a physical examination consistent

with ADA Standards. As part of the required medical history, the defendant shall review the results of any fasting blood sugar measurement taken prior to placement in the ADOC that have been provided.

The medical history should focus on the inmates type of diabetes and, if the inmate is taking insulin, efforts should be made to differentiate between Type-1 diabetes and insulin-requiring Type-2 diabetes, in accordance with ADA Standards. The frequency of ketoacidosis as well as hypoglycemia shall be determined, as well as a history of severe hypoglycemia without awareness (i.e. requiring the assistance of another person). A history of any known chronic complications associated with diabetes, including findings from the last dilated retinal examination, shall be determined.

(b) Diagnosis of diabetes: As part of its routine medical screening of all inmates entering the ADOC and as part of its annual physical examination of all inmates, the ADOC shall conduct a random plasma glucose test. If the random plasma test reveals a glucose level of 200 or higher, the inmate will be given a second plasma glucose test within 48 hours, [sic] hours. If the second plasma glucose test also yields a glucose level of 200 or higher, the inmate will be diagnosed with diabetes. If on the other hand, the second random plasma glucose test yields a glucose level of less than 200, the inmate will not be diagnosed with diabetes, but he or she will be given a confirmatory fasting plasma glucose test after the inmate arrives at his or her facility. If the confirmatory fasting plasma glucose test reveals a glucose level of 126 or higher, the inmate will be diagnosed as diabetic.

(c) All diabetic inmates shall, within a medically reasonable period of time, receive a screening laboratory evaluation that shall include baseline laboratory studies consistent with current ADA standards. Currently, this shall include a hemoglobin A1C HDL-cholesterol, triglycerides, total cholesterol, urinalysis for protein and ketones, serum creatinine, thyroid stimulating hormone (TSH) when indicated, and EKG. A fasting LDL-cholesterol test will be performed at the first chronic care clinic that a diabetic inmate attends after they leave reception center and are assigned to their permanent facility.

C.blood sugar testing and control

4.Treatment targets for both b;lood glucose and glycated hemoglobin shall be individually established for each diabetic inmate.Targets shall be as possible to those recommended by ADA Standards.

5: Diabetic inmates,particularly insulin requiring diabetics,shall be afforded the opportunity to have their capillary blood glucose (finger sticks) measured as often as necessary for adequate diabetes control.Diabetic inmates receiving insulin shall be afforded the opportunity to have their blood sugar (by capillary blood testing) measured prior to each dose (twice per day),with a medically necessary adjustment of insulin dose based on the blood sugar result obtained at that time.High blood sugar found at othere times shall be treated medicaslly,including with an approipriate dose and type pf insulin when medically necessaary.

6.Diabetics inmates shall have the opportunity to have their baseline glycated hemoglobin (NbA1C) measured as a baseline at intake and every thgree months thereafter.If their glycolated hemoglobin level is normal,the interval of testing can be advanced to every 6 months.If test results are not in the target range for that patient,the medical staff shall review maNAGEMENT TO DETERMINE IF MODIFICATION IS NECESSARY TO IMOPROVE BLOOD SUGAR CONTROL.Their management review shall be documented in the medical record.

7. Diabetic inmates who are compliant with their treatment,but who have inadequate blood sugar control despite routine intervenyions by facility professional staff,shall be referred to diabetics specialists for consultation and management.

8.Diabetic inmates shall have access to prompt treatment of hypoglycemia,and shall be provided with,or permitted to keep on their persons',glucose tablets and/or appropriate snacks for use whenever they feel symptoms of hypoglycemia.The ADOC shall stock in the medical unit injectable glucagon for emergemny treatment of hypoglycemia.

9.Diabetic inmates with high blood sugar and ketosis shall be afforded ready access to health professional staff at any time of the day or night,and provided with urgent medical treatment management in an attempt to prevent dehydration,metabolic acidosis, and coma requiring hospitalization.

D. EYE EXAMS

10. Diabetic inmates shall be afforded the opportunity to receive an annual dilated retinal examination by an ophthalmologist who is knowledgeable and experienced in the screening for diabetic retinopathy, cataracts, and glaucoma. Diabetic inmates found to be suffering from complications of retinopathy, cataracts, and glaucoma shall be referred for timely treatment to an ophthalmologist.

E. FOOT EXAMS

11. Diabetic inmates shall receive a medically appropriate foot exam with monofilament in accordance with ADA standards initially and as part of a regularly scheduled and formal chronic care clinic. Diabetic inmates shall be provided appropriate footwear (i.e. shoes that fit and which are able to protect their feet from injury) by the ADOC, including special orthopedic footwear prescribed by a physician or nurse practitioner. Foot disorders shall be treated with timely referral for necessary specialty care, and appropriate follow-up by the facilities professional staff. Nursing procedures ordered by medical providers shall be provided on a schedule and frequency as ordered/

F. TESTING AND TREATMENT FOR KIDNEY DISEASE

[Pg.1 2:03cv390*50'Page 2/12 though pg.5 '2:03cv390#50 pg.6/12 incorporated]

12. Diabetic inmates shall have their urine protein tested annually with a microalbumin test, unless the test has been positive and they are medicated with an ACE inhibitor. Diabetic inmates with proteinuria, or other signs of kidney disease shall receive medically appropriate treatment, including ACE inhibitors, when medically indicated.

G. TESTING AND TREATMENT FOR HEART DISEASE

13. Diabetic inmates shall have the opportunity to have their fasting lipid levels tested in accordance with ADA and National Education Project Standards. Persons with high lipid levels shall be treated with appropriate medicine, including statins. Diabetic inmates with high blood pressure, dyslipidemia, and arterial obstruction shall be treated in accordance with ADA Standards for those diseases.

H. DENTAL CARE

14. Diabetic inmates shall be afforded the opportunity to have a cleaning by a dental practitioner at least once per year. More frequent cleanings shall be provided as medically needed to maintain healthy gums in some patients, and quadrant scaling with hand tools shall be provided as needed to treat established gum disorders.

I. PREVENTATIVE AND CHRONIC CARE

15. Insulin-dependent diabetic shall be offered immunization against influenza annually (unless the serum is generally unavailable). Insulin-dependent diabetics shall be offered immunization against pneumococcus once and then repeated after age 64 if more than five years have passed since the first one.

16. Diabetic inmates shall be offered a full physical examination by a physician/nurse practitioner annually, and shall be enrolled in a regularly scheduled chronic [2:03cv 390 #50 Page 7/12]-disease clinic staffed by professionals with training and expertise in management of diabetics and which follows detailed written protocols for routine assessment and care. Diabetic inmates with poor control of their blood sugar should be seen more often, as medically [medically], to improve their clinical control. The frequency of visits shall be as frequent as necessary for appropriate medical management of the inmate, but no less frequently than quarterly.

17. Diabetic inmates with numbness, pain, indigestion, dizziness, or other symptoms related to patients with nerve damage shall be offered necessary treatment and when medically necessary, referral to appropriate specialists.

J. DIET AND EXERCISE

18. All general population inmates with diabetes shall be afforded an opportunity for daily large muscle exercise of approximately a one-hour duration. Inmates in segregation shall be afforded an opportunity for daily large muscle exercise of approximately forty-five minutes duration.

19. The current ADOC menus for diabetic inmates, "Consistent Carbohydrate Diet :""and "1800 Calorie Diet," will be revised to be in accordance with the most current standards for diabetic diets. These standards are included in the American Diabetes association's Evidence-Based Nutrition Principles and recommendations for the treatment and preventions of diabetics and diabetes-related Complications, the American Dietetic Association Manual of Clinical Diabetics, and the 2003

Exchange Lists for Meal Planning Diet/nutrient intake as referenced in these standards include :

a. Less than 10% derived from saturated fats.

b. Less than 300 mg dietary cholesterol per day

C. Nutrient distribution 50% carbohydrates, 20% protein, and 30 % fat.

d. Avoiding fructose as an added sweetener.

20. The ADOC will include at least two fruit servings per day. The term "fruit" is defined as fresh fruit, canned fruit (water-packed, juice-packed, rinsed or artificially sweetened), or one-half cup of 100% fruit juice.

21. The menus will be revised to ensure that the carbohydrate content of meals and snacks is consistent from day to day. (The carbohydrate content of each breakfast may be different from the carbohydrate content of each lunch, dinner and snack, but the carbohydrate content of each type of meal will be consistent from day to day.

22. The commissary shall offer diabetic items for purchase by inmates such as sugar substitutes and sugar-free snacks. The commissary shall also sell instant glucose tablets for inmates who suffer from hypoglycemia.

23. When medically necessary, the ADOC shall provide diabetics inmates with individually-prescribed diabetic meals, as ordered by a physician or nurse practitioner.

24. Diabetic inmates shall be provided meals and snacks during any trips outside of the facility, consistent with any special diabetic meals prescribed for the inmate within ADOC.

25. Inmates who are housed at work-release centers may eat meals outside of ADOC facilities. Any such meals shall not be governed by the provisions listed in paragraphs 19-24, above.

K. EDUCATION

26. The ADOC shall provide twice-yearly educational and nutritional classes for diabetic inmates. Such education shall be given by a knowledgeable diabetes educator and may be offered individually or to a group of diabetic inmates.

27. The ADOC shall make available and distribute to inmates printed self-care materials, including printed materials created by the ADA. If the supply of such materials is exhausted, it shall be refilled as soon as possible.

28. ADOC security staff shall be trained to recognize and treat hypoglycemia, and to recognize the symptoms and signs of other serious metabolic decompensation, and to refer the inmate for appropriate care. The medical unit shall stock, and appropriate staff shall be trained to administer, glucagons.

L. TIMING

29. Absent any unforeseen delays that are outside the control of the ADOC, the Defendant agrees to implement the new diabetes policies and procedures by November 6, 2003. Training of medical and correctional staff in the recognition of emergent diabetic situations shall be completed by Dec. 31, 2003.

m. CONSULTING AND REPORTING

30. The contract monitor who is employed to monitor the contract between the ADOC and the contract medical provider shall monitor this agreement to ensure compliance. The contract monitor shall not be an ADOC employee.

31. For a two year period beginning on Dec. 1, 2003, and ending on December 1, 2005, the contract monitor will report to plaintiff's counsel his or her evaluation of the ADOC and contract provider's compliance with the terms of this agreement. This report shall include: (1) the monthly monitor reports, including the data upon which [--0 2:03CV390 #50 PAGE 10/12]--
-- THE REPORTS RELY; (2) DEFICIENCIES FOUND TO EXIST BY THE CONTRACT MONITOR AND ANY RECOMMENDATION MADE BY THE CONTRACT MONITOR TO CORRECT THESE DEFICIENCIES; (3) The contract medical provider's written response to any cited deficiencies and details of any corrective actions that will be taken; (4) any notice by the ADOC that the contract medical provider has failed to perform adequate corrective actions or is in default of its contractual obligations;

and (5) any other documents reflecting any evaluation by any entity of the care provided to inmates with diabetes.

32. The contract monitor's reports and any documents reviewed or information obtained during the monitoring period may be used by either party in an action to enforce the Settlement Agreement in court or in any new action brought by the plaintiffs. Otherwise any report by the contract monitor shall remain confidential.

N. DISCLAIMER OF LIABILITY

33. The plaintiffs and Defendant expressly acknowledge and agree that this Settlement Agreement does not constitute an admission of liability by the defendant or the ADOC.

O. ENFORCEMENT OF SETTLEMENT AGREEMENT

34. This settlement agreement is not a consent decree, and is not enforceable in federal court. In the event of non-compliance with any of the terms in this Settlement Agreement, the plaintiffs may only enforce the Settlement Agreement in state court, pursuant to 18 U.S.C. § 3626(C)(1)(B)

35. The plaintiffs are not precluded from bringing a new action in federal court in the event of non-compliance with the terms of this Settlement Agreement. In the event that Plaintiff's current counsel bring suit on any of the issues presented in this action before][--10 2@.03cv390 #50 Page 11/12]--
December 1, 2005 (the end of the consulting and reporting period), the newly filed action will be considered a related case. All discovery that has been exchanged to date will be deemed to be part of discovery in any such new action. All documents provided to the contract monitor and all contract monitor reports that were written pursuant to para. 27 will be admissible in any such new action.

P. DISMISSAL

36. If the Court approves this settlement Agreement, the current case will be dismissed without prejudice from federal court.

q. NAMED PLAINTIFF'S RIGHT TO BRING SEPARATE DAMAGE ACTIONS

37. This lawsuit was brought for injunctive relief only. The defendant agrees that the settlement of this lawsuit does not create the defense of res judicata or collateral estoppel as to any damage claims brought by any of the named Plaintiffs, and the Defendant agrees not to raise such defenses as to any claim for damages brought by any of the named Plaintiffs.

R: Plaintiff David Scott Frost is a defendant diabetic inmate currently incarcerated at Limestone Correctional Facility. He is approximately 48 years old, diagnosed with diabetes, 8-9 years ago around the age of 42. Although he was diagnosed with diabetes, when he entered Kilby Prison, officer's ignored Frost's pleas, statement that he was a diabetic, then he was denied numerous times as he continuously attempted to tell the correctional officer's that he was a diabetic and that he was suffering, needed his medication's, snacks, he was not put on the diabetic chronic care list. Dr. Jeffery Long of Haleyville al. & Dr. Jerry Harrison also of Haleyville Alabama prescribed medications for Frost's treatment. When and throughout the days David Scott Frost was taken, delivered to Kilby OP prison he has been denied adequate access to medical care. Frost finally got through to medical care Dec. 30 2019, and the Physician/or nurse, after testing stated his sugar was 120 and told Frost to keep doing what he is doing, and sent Mr. Frost back to his unit. As described above and herein, patients with diabetes have special primary care needs that must be provided routinely to maintain health and prevent disease. Primary care if, is deficient in the ADOC due to grossly inadequate clinical evaluation, preventive care, and followup. These deficiencies result from the lack of an orderly organized

system of care and indifferent or incompetent physicians and nurses.

S. The defendants deliberate indifference to the serious medical needs of Alabama inmates with diabetes violates the plaintiffs rights under the Eighth and Fourteenth Amendment to the United States Constitution, as enforced through 42 U.S.C. § 1983 ,

T. Sections I. through S incorporated "supra": Frost is a prisoner with a disability in the custody of the Alabama Department of corrections , and Commissioner Jefferson Dunn who violates Title II of the Americans with Disabilities ACT (ADA), codified at 42 U.S.C. § 12131 et seq., and § 504 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794. ; claims of discrimination on the basis of and non-compliance and non-accommodation of physical disabilities, eighth Amendment violations, and discrimination on the basis of and non-accommodation of mental disabilities. State prisons fall squarely within the statutory definition of public entity and Title II therefore "unmistakably includes State prisons and prisoners within its coverage. Pa. Dep't of Corr. v. Yeskey, 524 U.S. 206, 209-10 (1998). Moreover, the ADA applies to all of the "many recreational 'activities,' medical 'services educational and vocation programs offered by prisons id. at 210; see also Bircoll v. Miami-Dade Cnty., 480 F.3d 1072, 1081 (11th cir. 2007), and to such basic necessities of life as use of toilets, showers, sinks. See Schmidt v. Odell, 64 F.Supp.2d 101491032-33 (D.Kan.99)(Brown, J.).

U. Plaintiff David Scott Frost has filed numerous complaint's, request's, the responses he received were wholly inadequate. The deliberate indifference to the serious medical needs of David Scott Frost violated plaintiff's rights under the Due Process Clause, the Eighth and Fourteenth amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

V. And wherefor, plaintiff prays that this Honorable Court grant the above and following relief:

- 1: Declare that the acts and omissions of the defendant's with regard to denial of medical care violate the due Process clause, Amendment 8 and Fourteen of the United States Constitution;
- 2: Enter injunction requiring the defendant's, his/her agent's, employees, and all persons acting in concert with them to cease their unconstitutional practices;
- 3: Award to the plaintiff David Scott Frost 1 Million Dollar's cost's against each defendant established herein, and cost's and ;
- 4: Grant plaintiff such other relief as he is entitled, as the Court deems necessary and just.
- 5: Alabama Department of Corrections/Limestone Correctional Facility is in contempt of its ADA Mental Health Settlement Case 2:14-cv-00601-MHT-TFM SETTLEMENT AGREEMENT CONCERNING MENTAL HEALTH CLAIMS ARISING UNDER THE AMERICANS WITH DISABILITIES ACT AND § 504 OF THE REHABILITATION ACT OF 1973

6: It is settled that in a pro se § 1983 context, a Complaint should not be dismissed for failure to state a claim, unless the plaintiff can prove no set of facts and that would entitle him to relief on the merits. "McMilliam v. Johnson 878 Fed. Supp. 1473 (M.D. Ala. 95); Smith v. Webster 145 F.3d 1231 (C.A.11 1992); Davis v. Bryan 810 F.2d 42, 45 (2d cir. 1987):

7: Plaintiff established and states a claim sufficiently, in the elements of a § 1983 action; That:

(i): The conduct he complains of was committed by a person acting under color of state law, and (ii) That this conduct deprived him of a right, privilege, or immunity secured by the Constitution or laws of the United States. Parratt v. Taylor 451 U.S. 527, 535, 101 S.Ct. 1908, 1912-1913, 68 L.ed.2d 420 (1981):

8: The rules provide that responses and objections for production of documents, interrogatories are to be served within 30 days."Fed/RCiv.Pro.34 (b).The request unless the Courts grants a shorter or longer time, The defendants,however have not responded to plaintiff's requests,without obtaining or even seeking permission from the court,or agreement from the plaintiff for this delay. It is well settled in Federal Practice that discovery objections are waived if a party fails to object o interrogatories.See Fed.R.Civ.Pro. 26(a)(1);26(g)(2)(C): Fed.R.Evid.501.Fed.R.Civ.Pro.37(A)(#).This waiver is enforced even if the objections are based on a claim of privilege.Mary and Kelly,Hart and Halman P.C.929 F.2d 8,12 (1st cir.91):

Shown above and in the next several points,the discovery sought is not only proper but is highly appropriate and felevant.

Plaintiff DAvid Scott Frost sent the following interrogatories,production of documents requests to :[i[];Kilby Correctional Facility,Warden,Receiving,P Processing P.O.Box 150 Mt.Meigs Ala. 36057 "7.Oct.2019.

[ii]: To:Anita Scott Circuit Court Clerk FRanklin County P.O.Box 160 Russelville Al, 35653 "8.Oct.2019:

(iii): To:[ADOC] Central Records Alcornelia Terry P.O.Box 301501 Mont.Al., 36130-1501 "10 Sept. 2019.

9: The discoveryt sought is relevant to the claims and defenses in the case.See Fed.R.Civ.Pro. permits discovery of matters relevant to the discovery of admissible evidence.In thg discovery stages,relevance is construed broadly to encompass any matter that bears on or the reasonably could lead to other matter that could bear on,any issue that is or may be in the case.Openheiner Fund V.Sanders 437 U.S.340,351,98 S.C.t 2380 (1978)(footnote omitted):Weiss v.Amoco Cpo. 142 F.R.D.311,315 (S.D.Iowa (1992)):

10; Each item sought by plaintiff is relevant to the past mistreatment of Mr. Frost by defendant's occurrence incident's. *Ancata v. Prison Health Services Inc.* 769 F.2d 700 (11th cir.1985); *United States v. Gold* 743 F.2d 800, 822-23 (11th cir.1984); *Landcaster v. Monroe* 116 F.3d 1419, 1425 (11th cir.1987); *McElligott v. Foley* 182 F.3d 1248, 1255 (11th Cir.99); *Saunders v. Catham County Board of Corrections* 728 F.2d 1367, 1368 (11th cir.1984):

In assessing the constitutionality of a particular delay courts will consider the reason for the delay and the nature of the delay, nature of the need. *McElligott v. Foley* 182 F.3d 1248, 1255 (11th cir.99); *Washington v. Dugger* 860 F.2d 1018, 1021 (11th cir.88) (delay providing treatments that eliminated pain and suffering at least temporarily could violate the constitution); *Frett v. Government of Virgin Islands* 839 F.2d 968, 978-79 (3d cir.88) (upholding \$200,000 verdict where prison officials knew that inmate posed a serious danger to guards and inmates but nevertheless returned him to general prison population where perfectly foreseeable harm occurred); *Haley v. Gross* 86 F.3d 630, 642-43 (7th cir.96) (affirming jury verdict of 1.65 million for plaintiff):

Respectfully submitted : 

Pro Se: AIS#: 307324 28 U.S.C. § 1746

Limestone Correctional Facility 28779 Nick Davis Road
Harvest Alabama 35749: K.36.

CERTIFICATE OF MAILING SERVICE

Delivered to prison officials for mailing this 18 '31 Dec. 2019

David Scott Frost: 

28 U.S.C. § 1746

Exh #1



Alabama Inmate Grievance



Medical Grievance



Medical Grievance Appeal

Check the appropriate above box which identifies the type of grievance you are filing. Be aware that you may not check the appeal box if you have not previously submitted a grievance for the same issue.

David Scott Frost

NAME

307324

AIS #

K.3710

UNIT

12-20-19

DATE

PART A--Inmate Grievance

Inadequate Med. Care Provided. Have had blood clots in feet, Numbness in feet, kidney failure, back pain daily - in the night. Have become + sleeping in my feet. Have dizzy spells.

INMATE SIGNATURE

PART B - RESPONSE

DATE RECEIVED

12/25/19

Response: We have not found any significant medical issues. Please advise the sick call nurse if you need to be evaluated and referred to the medical provider if necessary.

CMS Department Head Signature

DATE

If you wish to appeal a grievance response you may file a Grievance Appeal. Return the completed form to the attention of the Health Service Administrator. You may place the form in the sick call request box or give it to the segregation sick call nurse on rounds.

MEDICAL ADMINISTRATOR USE ONLY:

☒ Medical ☐ Dental ☐ Mental Health ☐ Other

<input checked="" type="checkbox"/> I Quality of Onsite Care	<input type="checkbox"/> VI Timeliness of Specialty Care
<input type="checkbox"/> II Quality of Specialty Care	<input type="checkbox"/> VII Medication Issues
<input type="checkbox"/> III Access to Onsite Care	<input type="checkbox"/> VIII Treatment and Testing Issues
<input type="checkbox"/> IV Access to Specialty Care	<input type="checkbox"/> IX Care Staff Conduct
<input type="checkbox"/> V Timeliness of Onsite Care	<input type="checkbox"/> X Other